HCJ & CYSJ

Per G.S. Singhvi, CJ

Sri B. David Ratna Kumar, a practising Advocate of Vijayawada, has filed this petition in public interest for nullifying the decision of the respondents to transfer the construction of model central prison at Kesarapalli village in R.S. No.53 of Kesarapalli Village, Gannavaram Mandal, Krishna District to Survey No.192/6 of Veerapaneni Gudem and also for issuance of writ of mandamus to the respondents to complete the construction of model central prison at the present site.

The petitioner has averred that the decision to construct model central prison at Kesrapalli village was taken after due deliberation and consideration of relevant factors, but on account of unwarranted interference by Mr. M. Venkateswara Rao, Member of Legislature Assembly, Gannavaram and despite the contrary opinion expressed by various departmental heads, the Government has decided to shift the construction of model central prison to Veerapaneni Gudem. He has further averred that the State has already spent a substantial amount on the construction of model central prison from the funds made available by the Central Government and shifting of model central prison at this stage would be highly detrimental to public interest. Still further, he has averred that the impugned decision to shift the model central prison has been taken with a view to benefit private individuals, who may get the land at throwaway prices.

During the pendency of the writ petition, several interim orders were passed by the Court requiring the Government to give the details of the total cost so far incurred in the construction of model central prison at Kesarapalli and also indicate as to who will be responsible for wastage of money, if the construction of model central prison is shifted.

Initially it was suggested on behalf of the respondents that the impugned decision has been taken in view of the communications received from Airport authority of India, which had objected to the construction of model central prison, but, later on, that suggestion was given up because it was pointed out by the learned counsel for the petitioner that three-storied building of Government Polytechnic College has already come into existence near the

Airport.

On 13-12-2005, the Court had, after hearing the learned counsel for the parties and perusing the photographs produced by them, asked the learned Advocate General to seek instructions and make statement on the following issues:

1. Whether or not the alternative site selected by the State Government for construction of model jail constitutes a part of reserved forest ?

2. How the Government will utilize the present site of the model jail and what will be the modalities for recovery of Rs.2.04 crores already spent on the construction of the model jail at the present site ? Whether or not the said amount will be recovered from the person to whom the land would be allotted by way of auction or otherwise ?

3. What action would be taken against the person who may be found responsible for having spent public funds in the construction of a part of the building meant for model jail, despite the decision taken by the State Government to shift the site of the model jail ?

4. What measures the Government will take in the matter of construction of model jail at the alternative site so as to ensure that the Court work is not adversely affected on account of non-availability of prisoners at appropriate time.

In the backdrop of the aforementioned order, learned Advocate General has filed affidavit of Dr. V.P. Jauhari, Special Chief Secretary to Government, Revenue Department. Paragraph 3 of the affidavit reads as under:

> "It is submitted that the above issues have been examined in detail in consultation with various departments including the

Collector, Krishna District. The queries raised by this Hon'ble Court are being answered as under:

1. The proposed land at Veerapanenigudem does not form part of any reserve Forest and no notification under Forest Laws has been issued as per the report of the Collector, Krishna Ditrict, dated 13.12.2005 wherein he specifically stated that R.S. No.192/6 situated in Veerapanenigudem of Gannavaram Mandal, wherein it is proposed the *(Sic. to)* construct the District Model Central Prison does not form part of Forest land and the said Survey number does not final place in the list of Forest lands furnished by the Forest Department.

2. It is further submitted that the Government have decided to utilise the land situated in Kesarapalli wherein the Jail was proposed to be constructed, will be utilized to develop I.T. Park on the concept of Special Economic Zone.

   The said I.T. park will be developed on public private partnership basis in which the private partner will be identified through the process of bidding / nomination and the cost of the structures raised will be taken into consideration while fixing the upset price for bidding / nomination and the same will be recovered. Therefore the expenditure incurred will be recovered in the manner above stated. It is further submitted that the expenditure incurred so far by the Jail Department will be provided by the Government, so that the construction of Jail at alternate site is not hampered.

3. It is submitted that the Enquiry Officer appointed under G.O. Rt. No.8184, General Administration (Spl.A) Dept., dated 08.12.2005 is taking steps to commence the work and he would be in a position to complete the same by the end of this month and the persons responsible for proceeding with the construction after the Government took decision to shift the Jail, would be identified and proper disciplinary action will be taken.

4. It is submitted that the distance from the alternate site to Vijayawada city is 30 Kms and the condition of the road connecting the two places is reported to be satisfactory as per the report of the Collector, Krishna District. Necessary arrangements will be made for transporting under trail prisoners to the respective Court efficiently without hampering the Court work.

Learned Advocate General has also produced a copy of letter dated 13-12-2005 sent by Collector, Krishna District to Special Chief Secretary to Government, Revenue Department. A perusal of that letter shows that the land bearing
R.S. No.192/6 situated in Veerapanenigudem of Gannavaram Mandal is Government land and not forest land and the same was never notified as reserve forest.

Heard learned counsel for the parties.

In our opinion, the affidavit of Mr. V.P. Jauhari, Special Chief Secretary to Government, Revenue Department, sufficiently clarifies the issues referred to in the Court's order dated 13-12-2005 and public interest stands adequately safeguarded by the measures taken by the Government for recovery of the expenses already incurred in the construction of model central prison at Kesrapalli village.

We may add that in response to the query made by the Court, learned Advocate General gave out that enquiry to which reference has been made in the affidavit of
Mr. V.P. Jauhari shall be completed within a period of three months.

Learned counsel for the petitioner says that construction of model central prison at the alternate site specified in the affidavit of Mr. V.P. Jauhari will not be conducive to the administration of justice because transportation of the prisoners from jail to the Court will take lot of time and that will delay the court proceedings. In this regard, it is sufficient to observe that the petitioner, other

representatives of the Bar Association, and enlighten citizens of the place may represent to the Government for location of model central prison at a suitable site. We are sure that any such representation made by those who have no personal interest in the matter will receive proper attention by the authority concerned of the Government.

With the above observations, the writ petition is disposed of.

G.S. SINGHVI, C.J.

Date:15-12-2005

C.Y. SOMAYAJULU, J

PV

HONOURABLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION No.24119 OF 2005

Between:

B. David Ratna Kumar S/o. Late B.S. Prasada Rao,
aged about 42 years, Occ: Practising Advocate,
R/o. Vijayawada, Krishna District.

.. Petitioner

AND

The Secretary to Government,
Revenue (Assn.II) Department,

Government of A.P., Secretariat,

Hyderabad & 4 others

.. Respondents

::ORDER::

Counsel for the petitioner : Mr. T. Pradyumna Kumar Reddy

Counsel for Respondents : Advocate General

15th December, 2005